

REMARKS

Claim 1 has been amended to more particularly point out and distinctly claim the subject matter of the invention. Claim 1 is the single independent claim. Claims 1, 5-10, 13 and 14 are pending.

It is noted that Applicant has included limitations in claim 1 directed to the fact that the front panel (64) of the lesser capacity, first bag 60 is subtended by the panel section 78A as illustrated in Figure 5. The closed loop zipper constructions 71 and 72 enable the placement of elements of the second bag 62 by folding into the smaller confines of the first bag 60 while still enabling access to the interior of the first bag 60 for the storage of items and materials through the claimed access opening to bag 60.

Thus, as pointed out by the Examiner, one of the features which differentiates the subject matter of the present invention is the concept of the closed loop fasteners. Another distinguishing feature, as pointed out by the Examiner, is the fact that when assembling and disassembling the claimed bags, it is not necessary to "flip them" on their side, as for example, taught by the Young reference cited by the Examiner. Not considered by the Examiner is the fact that both bags are flexible. Not considered by the Examiner is the fact that there is no separate compartment for the folded second bag. Rather, it is folded into the first bag.

The Examiner contends, however, that the subject matter claimed was obvious in view of Young taken with Miller. The Examiner at page 4 of the Official Action provided a figure, apparently created through computer graphics, which attempted to demonstrate the manner in which the Examiner combined the references. Thus, the Examiner, apparently relying upon alleged teachings in the Miller reference, urged a combination of Figure 1 of Young, taken with a revised version of Figure 4. That construct alone, wherein neither Figure 1 nor Figure 4 were, in

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fact, wed in a fashion suggested by Miller or Young or any other reference appears to suggest that the combination developed by the Examiner was one constructed on the basis of hindsight and the teachings in the present application. Of course, that is not a permissible basis for a rejection under §103.

Perhaps however, more importantly, if one were to combine Miller and Young in the manner suggested by the Examiner, one would maintain a separate compartment associated for the storage of the enlarged flexible backpack construction. That is, the Young patent appears to teach that the flexible foldable auxiliary bag 60 is folded into a special separate compartment which does not intrude into the ancillary compartment represented by the walls 23. In other words, the main compartment represented by the walls or surrounded by the walls 23 is separate from the compartment into which the flexible bag 60 is folded. This is taught for example, by reference to column 4, line 22, wherein the flexible container is indicated as being stored in a "receiving chamber 31".

A further distinction relates to the fact that the bag portions forming the luggage item or traveling bag depicted in Young are not flexible. The enlarged fold out bag 60 may be flexible. The other chambers forming the bag disclosed do not have that feature.

With respect to the Miller reference, Patent 6,305,587, it is noted that the fold away bag is retained within a rigid structure rather than a flexible structure as claimed presently. Additionally, the foldaway bag is stored in its own separate compartment, as for example, discussed at column 6 beginning at line 58, wherein there is reference to three separate compartments, each of which has its own function. There is not a multi-functional compartment, as set forth in the presently amended claims.

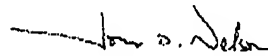
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As a consequence, Applicant respectfully submits that the claims in the amended condition are allowable. They are directed to dual bags forming a single compartment when open with a reduced volume compartment when consolidated. Reconsideration of the rejections and passage to allowance is therefore earnestly solicited.

Respectfully submitted,

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